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11 LOANS INC.)  
[ADDITIONAL COUNSEL LISTED IN SIGNATURE BLOCK]  
12

13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA  
15 WESTERN DIVISION

16 AMANDA HILL and GAYLE HYDE,  
17 individually and on Behalf of All Others  
Similarly Situated,

18 Plaintiffs,

19 v.

20 QUICKEN LOANS INC.,

21 Defendant.  
22  
23  
24  
25  
26  
27  
28

Case No. 5:19-cv-00163-FMO-SP

**ANSWER TO SECOND  
AMENDED COMPLAINT**

**DEMAND FOR JURY TRIAL**

Ctrm.: 6-D

Judge: Hon. Fernando M. Olguin

1 QUICKEN LOANS, LLC (f/k/a Quicken Loans Inc.) (“Quicken Loans” or  
2 “the Company”), hereby provides its answers and other responses to Plaintiff  
3 Amanda Hill’s (“Hill” or “Plaintiff”) Second Amended Complaint (“SAC”) (ECF  
4 No. 73). As Fed. R. Civ. P. 15 sets the deadline for this Answer, and because Plaintiff  
5 refused Quicken Loans’ request for any extension of the Rule 15 deadline and the  
6 time periods for the briefing of motions under the Local Rules would not  
7 accommodate the litigation and resolution of a motion for extension in advance of  
8 expiration of the Rule 15 deadline, Quicken Loans provides this Answer to comply  
9 with Rule 15 and without prejudice to (a) its position that Plaintiff’s claim is subject  
10 to a binding and enforceable arbitration agreement (and so no answer or other  
11 response to the SAC is required); (b) its forthcoming appeal as of right from this  
12 Court’s Order (ECF No. 108) denying the Company’s motion to compel arbitration  
13 of Plaintiff’s claim; and (c) its forthcoming motion to stay all proceedings in this  
14 action pending resolution of the Company’s appeal from the Order. Quicken Loans  
15 expressly reserves all of its appellate rights with respect to the Order and all of its  
16 rights to seek a stay of all proceedings in this action, and nothing in this Answer is  
17 intended to or shall be construed otherwise. Quicken Loans’ responses are also made  
18 without waiving, and expressly reserving, all rights Quicken Loans has to file  
19 dispositive motions that are addressed to the claim asserted in the SAC, in the event  
20 this matter is not compelled to arbitration.

21 Plaintiff Gayle Hyde has stipulated to the dismissal, with prejudice, of her sole  
22 claim in the SAC. ECF Nos. 101, 103; Fed. R. Civ. P. 41(a)(1)(A)(ii). As such, no  
23 response is required to the claim and allegations in the SAC concerning Hyde. To  
24 the extent a further response may be required to such claim and allegations, however,  
25 each and every such claim and allegation is expressly denied. Further, in light of the  
26 dismissal of Hyde’s claim, Quicken Loans understands and will construe the term  
27 “Plaintiffs,” as it is used in the SAC, to refer to Plaintiff Amanda Hill only, and  
28 provides the following answers and other responses consistent with that

1 understanding and construction. Except as specifically admitted herein, each and  
2 every allegation in the SAC is denied. Quicken Loans' responses to the individually  
3 numbered and other paragraphs of the SAC are as follows:

4 In response to the first sentence in the first unnumbered Paragraph of the SAC,  
5 Quicken Loans admits only that Plaintiff Hill purports to assert a claim against  
6 Quicken Loans. Quicken Loans states that it lacks knowledge or information  
7 sufficient to form a belief as to the truth of the allegations concerning the basis for  
8 Plaintiff's claim, and so denies them. In response to the second sentence in the first  
9 unnumbered Paragraph of the SAC, Quicken Loans states that it lacks knowledge or  
10 information sufficient to form a belief as to the allegations about Plaintiff's personal  
11 belief that discovery will reveal evidentiary support for her claim, and so denies them.  
12 Except as expressly admitted and stated herein, Quicken Loans denies the allegations  
13 in the first unnumbered Paragraph of the SAC.

14 **"NATURE OF THE CASE"**<sup>1</sup>

15 1. Quicken Loans admits only that Plaintiff purports to assert a claim  
16 against it for violation of the TCPA, and seeks the remedies identified in the SAC.  
17 Except as expressly admitted herein, Quicken Loans denies all the allegations in  
18 Paragraph 1. Further responding, Quicken Loans specifically denies engaging in any  
19 of the alleged "illegal actions," specifically denies "transmitting unsolicited,  
20 autodialed SMS or MMS text messages, *en masse*, to Plaintiff[s] cellular device[]  
21 and the cellular devices of numerous other individuals across the country,"  
22 specifically denies any violation of the TCPA, and specifically denies that any class  
23 should be certified in this action.

24  
25  
26  
27 <sup>1</sup> Quicken Loans' inclusion of the headings used in the SAC is strictly for ease of  
28 reference by the Court and parties. Quicken Loans does not admit the truth of any  
allegation contained within any headings, but instead expressly denies any such  
allegations.

**“JURISDICTION AND VENUE”**

2. Paragraph 2 states conclusions of law to which no response is required. To the extent the first clause of Paragraph 3 may be construed to contain allegations of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

3. The first clause of Paragraph 3 states conclusions of law to which no response is required. To the extent the first clause of Paragraph 3 may be construed to contain allegations of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

In response to the allegations in Paragraph 3(a), Quicken Loans states that it lacks knowledge or information sufficient to form a belief as to their truth, and so denies them.

The allegations in Paragraph 3(b) are vague, ambiguous and otherwise fail to identify the subject “text messages,” “telephone number that is assigned an area code (951),” and “location in this district.” Quicken Loans cannot, therefore, admit or deny them, and so denies them.

In response to allegations in Paragraph 3(c), Quicken Loans denies that it sent unsolicited text messages to Hill. Further responding, Quicken Loans states the allegations in Paragraph 3(c) are vague, ambiguous and otherwise fail to identify the subject “text messages,” “cellular device,” and location “in this district.” Quicken Loans cannot, therefore, admit or deny them, and so denies them. Quicken Loans also lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3(c) concerning Hill’s “receipt” (or lack thereof) of the unidentified “text messages” or her location at the unidentified time of the alleged receipt, and so denies them.

In response to the allegations in Paragraph 3(d), Quicken Loans admits only that it is a residential mortgage lender, that it is licensed in and conducts business in California and other states, and that it has helped millions of families nationwide to purchase homes and refinance home loans. Further responding, Quicken Loans states

1 that the allegations about it conducting “substantial business in this district” are  
2 vague, ambiguous and imprecise. Quicken Loans cannot, therefore, admit or deny  
3 them, and so denies them. The remaining allegations in Paragraph 3(d) about  
4 “intentional[] avail[ment] . . . of the laws of the State of California” state conclusions  
5 of law to which no response is required.

6 Except as expressly admitted herein, Quicken Loans denies all allegations in  
7 Paragraph 3 and each of its sub-paragraphs.

8 4. No response is required to Paragraph 4 and its sub-paragraphs because  
9 it contains allegations relating only to Plaintiff Hyde and her claim has been  
10 dismissed with prejudice. ECF Nos. 101, 103. To the extent Paragraph 4 or its sub-  
11 paragraphs may be construed to contain allegations of fact directed to Quicken Loans  
12 requiring a response, Quicken Loans denies them.

13 **“PARTIES”**

14 5. Paragraph 5 states conclusions of law to which no response is required.  
15 Further answering, Quicken Loans states that it lacks knowledge or information  
16 sufficient to form a belief as to the truth of the allegations in Paragraph 5 concerning  
17 Hill’s purported citizenship and residency “at all times mentioned” in the SAC, and  
18 so denies them.

19 6. No response is required to Paragraph 6 because it contains allegations  
20 relating only to Plaintiff Hyde and her claim has been dismissed with prejudice. ECF  
21 Nos. 101, 103. To the extent Paragraph 6 may be construed to contain allegations of  
22 fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

23 7. The allegations in the first sentence of Paragraph 7 states conclusions of  
24 law to which no response is required. In response to the allegations in the second  
25 sentence of Paragraph 7, Quicken Loans admits only that it is a corporation organized  
26 under the laws of the State of Michigan with a principal place of business in Detroit,  
27 Michigan. Except as specifically admitted herein, Quicken Loans denies all  
28 allegations in Paragraph 7.

1           **“THE TELEPHONE CONSUMER PROTECTION ACT OF 1991”**

2           8. Paragraph 8 contains no allegations of fact directed to Quicken Loans  
3 requiring a response, and otherwise states conclusions of law to which no response  
4 is required. To the extent Paragraph 8 may be construed to contain allegations of fact  
5 directed to Quicken Loans requiring a response, Quicken Loans denies them and  
6 states only that the referenced provision of the TCPA speaks for itself and is the best  
7 evidence of its contents.

8           9. Paragraph 9 contains no allegations of fact directed to Quicken Loans  
9 requiring a response, and otherwise states conclusions of law to which no response  
10 is required. To the extent Paragraph 9 may be construed to contain allegations of fact  
11 directed to Quicken Loans requiring a response, Quicken Loans denies them and  
12 states only that the purported (but unidentified) FCC “findings” and “recogni[tion],”  
13 if any, speak for themselves and are the best evidence of their contents.

14          10. Paragraph 10 and footnote 1 contain no allegations of fact directed to  
15 Quicken Loans requiring a response. To the extent Paragraph 10 and footnote 1 may  
16 be construed to contain allegations of fact directed to Quicken Loans requiring a  
17 response, Quicken Loans denies them and states only that the referenced internet  
18 “article” speaks for itself and is the best evidence of its contents.

19          11. Paragraph 11 contains no allegations of fact directed to Quicken Loans  
20 requiring a response. To the extent Paragraph 11 may be construed to contain  
21 allegations of fact directed to Quicken Loans requiring a response, Quicken Loans  
22 states that the allegations are vague, ambiguous, imprecise and otherwise fail to  
23 identify the referenced “text messages,” “recipients,” “wireless phone[s],” and  
24 recipient locations. Quicken Loans cannot, therefore, admit or deny them, and so  
25 denies them. Further answering, Quicken Loans specifically denies that all wireless  
26 phones “alert” the “recipient” that a text message has been “successfully transmitted”  
27 or “received.”  
28

1           12. Paragraph 12 contains no allegations of fact directed to Quicken Loans  
2 requiring a response. To the extent Paragraph 12 may be construed to contain  
3 allegations of fact directed to Quicken Loans requiring a response, Quicken Loans  
4 states that the allegations are vague, ambiguous, imprecise, hypothetical in nature,  
5 and otherwise fail to identify the referenced “SMS and MMS message  
6 advertisements,” “recipients,” “wireless phone users,” “wireless service providers,”  
7 or “data plans.” Quicken Loans cannot, therefore, admit or deny them, and so denies  
8 them. Further answering, Quicken Loans specifically denies that “SMS and MMS  
9 message advertisements” cost their recipients money in all circumstances.

10           13. Paragraph 13 contains no allegations of fact directed to Quicken Loans  
11 requiring a response, and otherwise states conclusions of law to which no response  
12 is required. To the extent Paragraph 13 may be construed to contain allegations of  
13 fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

14           **“FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS”**

15           14. Quicken Loans lacks knowledge or information sufficient to form a  
16 belief as to the truth of the allegations in the first sentence of Paragraph 14 concerning  
17 Hill’s status as a subscriber of the referenced telephone number ending in -9785 at  
18 present and at all times mentioned in the SAC, and so denies them. The second  
19 sentence of Paragraph 14 states conclusions of law to which no response is required.  
20 To the extent the second sentence of Paragraph 14 may be construed to contain  
21 allegations of fact directed to Quicken Loans requiring a response, Quicken Loans  
22 states only that (a) it lacks knowledge or information sufficient to form a belief as to  
23 the truth of the allegations concerning whether the subject number is assigned to a  
24 “cellular telephone service” at present and has been so assigned at all times  
25 mentioned in the SAC, and (b) the TCPA speaks for itself and is the best evidence of  
26 its contents. Except as specifically stated herein, Quicken Loans denies all  
27 allegations in the second sentence of Paragraph 14.



1           15. Quicken Loans denies the allegations in Paragraph 15, and specifically  
2 denies that it sent text messages to the subject telephone number ending in -9785  
3 without prior express consent. Further answering, Quicken Loans states that the  
4 referenced “screenshot” of the “example” text message “extracted from Hill’s  
5 cellular device” speaks for itself and is the best evidence of its contents.

6           16. The allegations in the first sentence of Paragraph 16 are vague,  
7 ambiguous, imprecise and otherwise fail to identify the dates and times of the  
8 referenced “several occasions.” Quicken Loans cannot, therefore, admit or deny the  
9 allegations in the first sentence of Paragraph 16, and so denies them. In response to  
10 the allegations in the second sentence of Paragraph 16, Quicken Loans states only  
11 that the referenced “screenshot” “extracted from Hill’s cellular device” speaks for  
12 itself and is the best evidence of its contents. Quicken Loans denies the remaining  
13 allegations in Paragraph 16, and specifically denies sending an “onslaught  
14 of . . . digital junk mail” to the subject telephone number. Except as expressly stated  
15 herein, Quicken Loans denies the allegations in Paragraph 16.

16           17. Quicken Loans denies the allegations in the first and second sentences  
17 of Paragraph 17. The third sentence of Paragraph 17 states conclusions of law to  
18 which no response is required. To the extent a response is required to the third  
19 sentence of Paragraph 17, Quicken Loans states that the TCPA speaks for itself and  
20 is the best evidence of its contents and otherwise denies the allegations.

21           18. Quicken Loans admits only that the URLs containing “m.qloans.co/”  
22 followed by other unique numbers and characters depicted in the images at  
23 Paragraphs 15 and 16 were operated by Quicken Loans and were uniquely associated  
24 with Plaintiff’s (or someone acting or purporting to act on her behalf’s) requests for  
25 mortgage information and prior consents to calls and texts from Quicken Loans made  
26 at LMB.YourVASurvey.Info on or about October 11, 2018 and LowerMyBills.com  
27 on or about November 12, 2018. Except as expressly admitted, Quicken Loans  
28 denies the allegations in Paragraph 18.



1           19. Quicken Loans admits only that the URLs containing “m.qloans.co/”  
2 followed by other unique numbers and characters depicted in the images at  
3 Paragraphs 15 and 16 were operated by Quicken Loans and were uniquely associated  
4 with Plaintiff’s (or someone acting or purporting to act on her behalf’s) requests for  
5 mortgage information and prior consents to calls and texts from Quicken Loans made  
6 at LMB.YourVASurvey.Info on or about October 11, 2018 and LowerMyBills.com  
7 on or about November 12, 2018. Further answering, Quicken Loans states that the  
8 websites rendered upon clicking the URLs belonged to Quicken Loan in October and  
9 November 2018. The websites speak for themselves and are the best evidence of  
10 their contents. Except as specifically admitted and stated herein, Quicken Loans  
11 denies the allegations in Paragraph 19.

12           20. Quicken Loans admits only that it contacted the telephone number  
13 ending in -9785 from the SMS short code 26293, which is registered to Quicken  
14 Loans, after Hill (or someone acting or purporting to act on her behalf) voluntarily  
15 submitted contact and other personal information, including the telephone number  
16 ending in -9785, and provided prior written consent to calls and texts from Quicken  
17 Loans as part of a request to be contacted at that number by Quicken Loans in order  
18 to obtain information about a mortgage refinance loan. The remaining allegations in  
19 Paragraph 20 are vague, ambiguous, imprecise, and otherwise fail to identify the  
20 referenced “text message marketing program.” Quicken Loans cannot, therefore,  
21 admit or deny the allegations, and so denies them.

22           21. No response is required to Paragraph 21 because it contains allegations  
23 relating only to Plaintiff Hyde and her claim has been dismissed with prejudice. ECF  
24 Nos. 101, 103. To the extent Paragraph 21 may be construed to contain allegations  
25 of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

26           22. No response is required to Paragraph 22 because it contains allegations  
27 relating only to Plaintiff Hyde and her claim has been dismissed with prejudice. ECF  
28

1 Nos. 101, 103. To the extent Paragraph 22 may be construed to contain allegations  
2 of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

3 23. No response is required to Paragraph 23 because it contains allegations  
4 relating only to Plaintiff Hyde and her claim has been dismissed with prejudice. ECF  
5 Nos. 101, 103. To the extent Paragraph 23 may be construed to contain allegations  
6 of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

7 24. No response is required to Paragraph 24 because it contains allegations  
8 relating only to Plaintiff Hyde and her claim has been dismissed with prejudice. ECF  
9 Nos. 101, 103. To the extent Paragraph 24 may be construed to contain allegations  
10 of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

11 25. No response is required to Paragraph 25 because it contains allegations  
12 relating only to Plaintiff Hyde and her claim has been dismissed with prejudice. ECF  
13 Nos. 101, 103. To the extent Paragraph 25 may be construed to contain allegations  
14 of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

15 26. No response is required to Paragraph 26 because it contains allegations  
16 relating only to Plaintiff Hyde and her claim has been dismissed with prejudice. ECF  
17 Nos. 101, 103. To the extent Paragraph 26 may be construed to contain allegations  
18 of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

19 27. No response is required to Paragraph 27 because it contains allegations  
20 relating only to Plaintiff Hyde and her claim has been dismissed with prejudice. ECF  
21 Nos. 101, 103. To the extent Paragraph 27 may be construed to contain allegations  
22 of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

23 28. No response is required to Paragraph 28 because it contains allegations  
24 relating only to Plaintiff Hyde and her claim has been dismissed with prejudice. ECF  
25 Nos. 101, 103. To the extent Paragraph 28 may be construed to contain allegations  
26 of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

27 29. No response is required to Paragraph 29 because it contains allegations  
28 relating only to Plaintiff Hyde and her claim has been dismissed with prejudice. ECF

1 Nos. 101, 103. To the extent Paragraph 29 may be construed to contain allegations  
2 of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

3 30. No response is required to Paragraph 30 because it contains allegations  
4 relating only to Plaintiff Hyde and her claim has been dismissed with prejudice. ECF  
5 Nos. 101, 103. To the extent Paragraph 30 may be construed to contain allegations  
6 of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

7 31. Quicken Loans lacks knowledge or information sufficient to form a  
8 belief as to the truth of the allegations in Paragraph 31 concerning whether and how  
9 “Plaintiff[] [is] alerted by her cellular devices . . . whenever she receives a text  
10 message,” and how Plaintiff responded to the alleged receipt of text messages, so  
11 denies them. Quicken Loans otherwise denies the allegations in Paragraph 31.  
12 Further answering, Quicken Loans states that no response is required to the  
13 allegations in Paragraph 31 relating to Plaintiff Hyde because her claim has been  
14 dismissed with prejudice. ECF Nos. 101, 103. To the extent such allegations may  
15 be construed to contain allegations of fact directed to Quicken Loans requiring a  
16 response, Quicken Loans denies them.

17 32. Paragraph 32 states conclusions of law to which no response is required.  
18 To the extent Paragraph 32 may be construed to contain allegations of fact directed  
19 to Quicken Loans requiring a response, Quicken Loans denies them, and specifically  
20 denies that any class should be certified in this action.

21 33. Paragraph 33 states conclusions of law to which no response is required.  
22 To the extent Paragraph 33 may be construed to contain allegations of fact directed  
23 to Quicken Loans requiring a response, Quicken Loans denies them, and specifically  
24 denies that any class should be certified in this action.

25 34. Paragraph 34 states conclusions of law to which no response is required.  
26 To the extent Paragraph 34 may be construed to contain allegations of fact directed  
27 to Quicken Loans requiring a response, Quicken Loans denies them, and specifically  
28 denies that any class should be certified in this action.

1           35. Paragraph 35 states conclusions of law to which no response is required.  
2 To the extent Paragraph 35 may be construed to contain allegations of fact directed  
3 to Quicken Loans requiring a response, Quicken Loans denies them, and specifically  
4 denies that any class should be certified in this action.

5           36. Paragraph 36 states conclusions of law to which no response is required.  
6 To the extent Paragraph 36 may be construed to contain allegations of fact directed  
7 to Quicken Loans requiring a response, Quicken Loans denies them, and specifically  
8 denies that any class should be certified in this action.

9                                   **“CLASS ALLEGATIONS”**

10           37. Paragraph 37 contains no allegations of fact directed to Quicken Loans  
11 requiring a response. To the extent Paragraph 37 may be construed to contain  
12 allegations of fact directed to Quicken Loans requiring a response, Quicken Loans  
13 denies them, specifically denies that any class should be certified in this action, and  
14 specifically denies that Plaintiff could represent the putative class alleged in  
15 Paragraph 37 consistent with the requirements of Fed. R. Civ. P. 23. Further  
16 answering, Quicken Loans understands that Plaintiff intends to seek certification of  
17 a putative class different from that alleged in Paragraph 37.

18           38. Paragraph 38 contains no allegations of fact directed to Quicken Loans  
19 requiring a response. To the extent Paragraph 38 may be construed to contain  
20 allegations of fact directed to Quicken Loans requiring a response, Quicken Loans  
21 denies them, specifically denies that any class should be certified in this action, and  
22 specifically denies that Plaintiff could represent the putative class alleged in  
23 Paragraph 38 consistent with the requirements of Fed. R. Civ. P. 23. Further  
24 answering, Quicken Loans understands that Plaintiff intends to seek certification of  
25 a putative class different from that alleged in Paragraph 38.

26           39. Paragraph 39 contains no allegations of fact directed to Quicken Loans  
27 requiring a response. To the extent Paragraph 39 may be construed to contain  
28 allegations of fact directed to Quicken Loans requiring a response, Quicken Loans

1 denies them, specifically denies that any class should be certified in this action, and  
2 specifically denies that Plaintiff could represent the putative classes alleged in  
3 Paragraphs 37 and 38 consistent with the requirements of Fed. R. Civ. P. 23.

4 40. Quicken Loans admits only that Plaintiff purports to exclude the  
5 identified persons from the putative classes alleged in Paragraphs 37 and 38. Except  
6 as expressly admitted herein, Quicken Loans denies the allegations in Paragraph 40,  
7 specifically denies that any class should be certified in this action, and specifically  
8 denies that Plaintiff could represent the putative classes alleged in Paragraphs 37 and  
9 38 consistent with the requirements of Fed. R. Civ. P. 23.

10 41. Paragraph 41 contains no allegations of fact directed to Quicken Loans  
11 requiring a response. To the extent Paragraph 41 may be construed to contain  
12 allegations of fact directed to Quicken Loans requiring a response, Quicken Loans  
13 denies them, and specifically denies that any class should be certified in this action.

14 42. The allegations in Paragraph 42 are vague, ambiguous, imprecise, and  
15 otherwise fail to identify the purported “impact[s],” “harm[s],” “acts,” “affiliates,” or  
16 “subsidiaries.” Quicken Loans cannot, therefore, admit or deny the allegations, and  
17 so denies them. Further answering, Quicken Loans specifically denies that Plaintiff  
18 or any member of any putative classes alleged in Paragraphs 37 and 38 is entitled to  
19 any relief in this lawsuit, and specifically denies that any class should be certified in  
20 this action.

21 43. Paragraph 43 contains no allegations of fact directed to Quicken Loans  
22 requiring a response. To the extent Paragraph 43 may be construed to contain  
23 allegations of fact directed to Quicken Loans requiring a response, Quicken Loans  
24 denies them, specifically denies that any class should be certified in this action, and  
25 specifically denies that Plaintiff or any member of the putative classes alleged in  
26 Paragraphs 37 and 38 is entitled to any relief in this lawsuit.

27 44. Quicken Loans denies the allegations in Paragraph 44, specifically  
28 denies that any class should be certified in this action, and specifically denies that

1 Plaintiff could represent the putative classes alleged in Paragraphs 37 and 38  
2 consistent with the requirements of Fed. R. Civ. P. 23.

3 45. Paragraph 45 contains no allegations of fact directed to Quicken Loans  
4 requiring a response and is otherwise introductory and hypothetical in nature. To the  
5 extent Paragraph 45 may be construed to contain allegations of fact directed to  
6 Quicken Loans requiring a response, Quicken Loans denies them, and specifically  
7 denies that any class or subclass should be certified in this action.

8 46. Quicken Loans denies the allegations in Paragraph 46, and specifically  
9 denies that any class should be certified in this action and that Plaintiff or any member  
10 of any putative class is entitled to any relief in this lawsuit.

11 47. Quicken Loans denies the allegations in Paragraph 47, and specifically  
12 denies that any class should be certified in this action and that Plaintiff or any member  
13 of any putative class is entitled to any relief in this lawsuit.

14 48. Quicken Loans denies the allegations in Paragraph 48, and specifically  
15 denies that any class should be certified in this action and that Plaintiff or any member  
16 of any putative class is entitled to any relief in this lawsuit.

17 49. Quicken Loans denies the allegations in Paragraph 49, and specifically  
18 denies that any class should be certified in this action and that Plaintiff or any member  
19 of any putative class is entitled to any relief in this lawsuit.

20 50. Quicken Loans denies the allegations in Paragraph 50 and each of its  
21 sub-paragraphs (a through d), and specifically denies that any class should be  
22 certified in this action and that Plaintiff or any member of any putative class is  
23 entitled to any relief in this lawsuit.

24 51. Quicken Loans denies the allegations in Paragraph 51, and specifically  
25 denies that any class should be certified in this action and denies that Plaintiff or any  
26 member of any putative class is entitled to any relief in this lawsuit.

1           52. Quicken Loans denies the allegations in Paragraph 52, and specifically  
2 denies that any class should be certified in this action and denies that Plaintiff or any  
3 member of any putative class is entitled to any relief in this lawsuit.

4           53. Quicken Loans denies the allegations in Paragraph 53, and specifically  
5 denies that any class should be certified in this action and that Plaintiff or any member  
6 of any putative class is entitled to any relief in this lawsuit.

7                                   **“CLAIM FOR RELIEF”**

8           54. Quicken Loans hereby incorporates by reference, as if fully set forth  
9 herein, its answers and responses to the allegations in Paragraphs 1 through 53 above.

10          55. Quicken Loans denies the allegations in Paragraph 55, specifically  
11 denies that Plaintiff or any member of any putative class is entitled to any relief in  
12 this lawsuit, and specifically denies that any class should be certified in this action.

13          56. Quicken Loans denies the allegations in Paragraph 56, specifically  
14 denies that Plaintiff or any member of any putative class is entitled to any relief in  
15 this lawsuit, and specifically denies that any class should be certified in this action.

16          57. Quicken Loans denies the allegations in Paragraph 57, specifically  
17 denies that Plaintiff or any member of any putative class is entitled to any relief in  
18 this lawsuit, and specifically denies that any class should be certified in this action.

19          58. Quicken Loans denies the allegations in Paragraph 58, specifically  
20 denies that Plaintiff or any member of any putative class is entitled to any relief in  
21 this lawsuit, and specifically denies that any class should be certified in this action.

22                                   **“PRAYER FOR RELIEF”**

23          In response to the unnumbered paragraph and subparagraphs A through F  
24 following Paragraph 58 of the SAC that begins with the word “WHEREFORE,”  
25 Quicken Loans denies that Plaintiff or any member of any putative class is entitled  
26 to any relief in this lawsuit and specifically denies that Plaintiff or any member of  
27 any putative class is entitled to the specific relief requested in each subparagraph, and  
28 specifically denies that any class should be certified in this action.



**“DEMAND FOR JURY TRIAL”**

Quicken Loans admits only that Plaintiff purports to seek a trial by jury. To the extent the unnumbered paragraph following the “Demand for Jury Trial” heading may be construed to contain allegations of fact directed to Quicken Loans requiring a response, Quicken Loans denies them.

**AFFIRMATIVE AND ADDITIONAL DEFENSES**

**FIRST DEFENSE**

The TCPA’s prohibition on calls made using an ATDS is an unconstitutional restriction of speech on its face and as applied.

**SECOND DEFENSE**

Plaintiff’s claim is subject to the primary jurisdiction of the Federal Communications Commission (FCC), and should be stayed and/or dismissed pending resolution by the FCC.

**THIRD DEFENSE**

The SAC fails to state a claim upon which relief may be granted.

**FOURTH DEFENSE**

Plaintiff’s claim is or may be barred, in whole or in part, because she lacks standing.

**FIFTH DEFENSE**

Plaintiff lacks standing to pursue her claim, and/or this Court lacks subject matter jurisdiction, because Plaintiff, upon information and belief, has suffered no cognizable injury fairly traceable to the challenged conduct.

**SIXTH DEFENSE**

Plaintiff lacks standing to pursue her claim for injunctive relief because there is no risk of future injury.

**SEVENTH DEFENSE**

Quicken Loans relies on any and all defenses and limitations applicable to the subscribers or user(s) of Plaintiff's alleged telephone number, and co-subscribers to or co-users of Plaintiff's alleged telephone number.

**EIGHTH DEFENSE**

Plaintiff's claim is barred because, upon information and belief, she, someone acting on her behalf, and/or another owner or user of the subject telephone number(s) consented to or invited the challenged text message(s).

**NINTH DEFENSE**

Quicken Loans did not use an "automated telephone dialing system," as that term is defined under the TCPA, to send any challenged text message to the subject telephone number.

**TENTH DEFENSE**

Quicken Loans did not use a device that "(i) stor[es] or produc[es] telephone numbers 'using a random or sequential number generator' and (ii) dial[s] those numbers" (*ACA Int'l v. FCC*, 885 F.3d 687, 693 (D.C. Cir. 2018)) to send any challenged text message to the subject telephone number.

**ELEVENTH DEFENSE**

Plaintiff's claim is barred, in whole or in part, because Quicken Loans honored any sufficient opt-out request made by Plaintiff within a reasonable time, and as otherwise permitted by FCC regulation (47 C.F.R. § 64.1200(d)).

**TWELFTH DEFENSE**

Plaintiff's claim is barred, in whole or in part, because Quicken Loans did not engage in willful or knowing conduct in violation of the TCPA.

**THIRTEENTH DEFENSE**

Recovery on Plaintiff's claim is barred or limited by all defenses, statutory or otherwise, available under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, and applicable regulations (47 C.F.R. § 64.1200 *et seq.*) and applicable case

1 law, and Quicken Loans reserves and asserts all such defenses as if fully set forth  
2 herein.

3 **FOURTEENTH DEFENSE**

4 To the extent Quicken Loans sent a text message to Plaintiff in reliance on  
5 information provided by third parties, Quicken Loans hereby pleads and relies upon  
6 all rights, claims, and defenses that arise by virtue of the status, conduct, or rights of  
7 those third parties, including the protections of arbitration contracts that bar a civil  
8 lawsuit of this type, and of consents obtained.

9 **FIFTEENTH DEFENSE**

10 Plaintiff's claim is barred, in whole or in part, because she suffered no actual  
11 damages proximately caused by Quicken Loans.

12 **SIXTEENTH DEFENSE**

13 Plaintiff's claim is barred, in whole or in part, by principles of unclean hands,  
14 and/or similar legal or equitable principles.

15 **SEVENTEENTH DEFENSE**

16 The United States Constitution bars or limits the relief requested by Plaintiff,  
17 if and to the extent the relief would unfairly subject Quicken Loans to punishment  
18 and/or to an unfairly extreme remedy without advance notice or opportunity to  
19 protect itself, or the relief would amount to a taking, or the relief would be out of  
20 proportion to the alleged conduct, or the remedy is unrestricted by sensible standards,  
21 or the relief would have an unfair economic impact on Quicken Loans.

22 **EIGHTEENTH DEFENSE**

23 All putative class allegations and claims should be stricken or dismissed  
24 because this case is not appropriate for certification as a class action under Federal  
25 Rule of Civil Procedure 23, and class action treatment is not appropriate under the  
26 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*

**NINETEENTH DEFENSE**

With respect to absent putative class members, in the event Plaintiff is allowed to pursue class certification of a nationwide class or a class consisting of persons who reside outside the state of California, certification is barred because personal jurisdiction is lacking, certification would violate the Rules Enabling Act (28 U.S.C. § 2702(b)), and/or certification is precluded by controlling law under *Bristol Myers-Squibb Co. v. Superior Court* (BMS), 137 S. Ct. 1773 (2017).

**TWENTIETH DEFENSE**

With respect to absent putative class members, in the event Plaintiff is allowed to pursue class certification, Quicken Loans reserves all affirmative defenses and claims, including, but not limited to, the defenses of lack of personal or subject matter jurisdiction; lack of standing; arbitration; prior express consent; prior express written consent; statute of limitation; bankruptcy; good faith and/or that the claims may be barred by principles of in pari delicto, unclean hands, and/or similar legal or equitable principles; res judicata; and/or collateral estoppel, claim preclusion, judgment, waiver or similar concepts.

**TWENTY-FIRST DEFENSE**

Plaintiff's claim and class allegations are barred because there exists a binding agreement to arbitrate her claims, in which she waived her right to bring this action in court and any ability to assert any claims on behalf of a putative class.

**RESERVATION OF RIGHTS**

Quicken Loans expressly reserves its right to amend this Answer, including, but not limited to, by asserting additional defenses or making additional claims or counterclaims for further relief, as discovery in this action shall warrant, or in the event of any future change in the nature or scope of this lawsuit.

**DEMAND FOR TRIAL BY JURY**

Quicken Loans demands and hereby respectfully requests a trial by jury.

**PRAYER FOR RELIEF**

WHEREFORE, having fully answered the SAC, Quicken Loans prays for relief as follows:

1. That Plaintiff take nothing by way of the SAC;
2. That the SAC be dismissed in its entirety with prejudice, and that judgment be entered in favor of Quicken Loans;
3. That Quicken Loans be awarded its costs and expenses of suit incurred herein, including reasonable costs and attorneys' fees; and
4. For such other and further relief as this Court deems just and proper.

Respectfully submitted,

Dated: August 19, 2020

By: /s/ W. Kyle Tayman

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